

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:19 CR 387
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>OPINION AND ORDER</u>
)	
JAMES JACKSON,)	
)	
Defendant.)	

Before the Court is the Motion for Order of Pretrial Release with Conditions and/or Motion for Detention Hearing. **Doc #: 44.** For the following reasons, the Motion is **DENIED.**

BACKGROUND

On July 31, 2019, a federal grand jury returned a four-count Superseding Indictment against James Jackson, Demario Horton, and Alonda Bryant. Doc #: 19. Jackson is charged in the first three counts with Hobbs Act Robbery in violation of 18 U.S.C. 1951(a) and 2; Felon in Possession of a Firearm in violation of 18 U.S.C. § 922(G); and Using or Carrying and Brandishing a Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. § 924(c), which carries a mandatory minimum of seven years' imprisonment consecutive to any sentence imposed on the other counts.

On July 3, 2019, following his arrest in Lorain County, Jackson waived his right to a detention hearing and consented to detention pending trial. Doc #: 15. In so doing, he also waived his right to appeal the Magistrate Judge's order of detention. *Id.* His trial is scheduled to

begin on August 17, 2020. Doc #: 43. Jackson now asks the Court for pretrial release or, in the alternative, a detention hearing. Doc #: 44.

ANALYSIS

There are several reasons for denying Jackson's request. First, at his arraignment, Jackson, having been advised of the nature of the charges against him and under the advice of counsel, expressly waived his right to a detention hearing, consented to being held without bail pursuant to 18 U.S.C. § 3142, and knowingly and voluntarily waived whatever rights he had to appeal his detention. Doc #: 15.

Second, even if the Court were to consider Jackson's motion, a detention hearing may be reopened only after a "judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f). Here, the only change in circumstances that Jackson identifies is the COVID-19 pandemic. Jackson states that he suffers from high blood pressure, a condition that has been shown correlates to bad reactions to the virus. He also seeks to assist his fiance in caring for and protecting their four children, who have a variety of medical problems including asthma, lead poisoning and compromised immune systems. However, Jackson does not assert that anyone at NEOCC, where he is housed, has COVID-19, and the record shows that the U.S. Marshals have put into place detailed measures to prevent the virus from entering NEOCC and preventing the spread of the virus should it in fact enter the facility. See Doc #: 45 at 8-13.

Finally, even if COVID-19 enters NEOCC, the Court would not likely permit Jackson's release. Prior to the circumstances leading to his current detention occurred, Jackson had an extensive background rife with criminal charges and convictions including, among other things, other robberies with firearm specifications, multiple thefts, assaults, drugs and domestic violence, placing him squarely in Criminal History Category IV. Doc #: 38. Moreover, Jackson is alleged to have committed the instant offenses while under criminal justice sentences for possession of cocaine and two thefts. *Id.* Accordingly, the Court is not at all confident that if released with conditions, Jackson will *not* pose a danger to the community. 18 U.S.C § 3142(g).

CONCLUSION

For the foregoing reasons, the Court hereby **DENIES** the pending Motion, **Doc #: 44.**

IT IS SO ORDERED.

/s/ Dan A. Polster April 17, 2020

Dan Aaron Polster
United States District Judge